IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9877 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RATNAVIJAYSINH GANGARAM CHAUHAN - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR BS PATEL for Petitioner(s) : 1,MRS RANJAN B PATEL for Petitioner(s) : 1,

MR HM PRACHCHHAK AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/02/2006

ORAL JUDGMENT

1. By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Commissioner of Police, Vadodara dtd.9/6/1998 in cancelling the licence to possess arms under the Arms Act which is confirmed by the Deputy Secretary, Home Department by its judgement and order dtd.1/10/1999.

2. It appears that the petitioner was having licence to possess a gun, granted under the provisions of the Arms Act, 1959. As the petitioner was involved in criminal cases, after following due procedure under sec.17 of the Arms

Act and giving an opportunity to the petitioner, the Commissioner of Police by an order dtd.9/6/1998 passed the impugned order cancelling the licence which was granted in favour of the petitioner to possess the gun, by holding that it is not in the interest of public and public safety to continue the licence in favour of the petitioner. Being aggrieved by and dissatisfied with the said order passed by the Commissioner of Police, Vadodara dtd.9/6/1998, the petitioner preferred an appeal before the Secretary, Home Department and the Deputy Secretary, Home Department, by its order dtd.1/10/1999 dismissed the said appeal, confirming the order passed by the Commissioner of Police, Vadodara dtd.9/6/1998, by observing that for the period between 1987 to 1995, the petitioner is involved in six criminal cases under the Indian Penal Code. Being aggrieved by and dissatisfied with the aforesaid both the orders,the petitioner has

preferred the present petition under Articles 226 and 227 of the Constitution of India.

3. Today, when the matter is called out, Mr.B.S. Patel, learned advocate appearing on behalf of the petitioner has submitted that in all the criminal cases registered against the petitioner, the petitioner has been acquitted and therefore, there is no cause now for not granting licence in favour of the petitioner. However, it is pertinent to note that there is nothing on the record t show that the petitioner is acquitted in all the criminal cases and the petitioner has not been able to produce any judgement and order passed by the competent criminal court acquitting the present petitioner. The licence came to be cancelled by the Commissioner of Police and confirmed by the Dy.Secretary on the ground that the petitioner is involved in the criminal cases and it is not in the interest of public and

public safety to continue the licence in favour of the petitioner. The Commissioner of Police in exercise of the powers under sec.17 of the Arms Act and considering the position which was prevailing at the relevant time i.e. the petitioner was involved in as far as six criminal cases, cancelled the licence. It cannot be said that the order passed by the Commissioner of Police, Vadodara is in any way illegal and/or de-hors the provisions of the statute.

4. However, if the petitioner is of the opinion that the circumstances have been changed and the petitioner is acquitted, it will be open for the petitioner to approach the competent authority for a fresh licence. In case of filing an application for fresh licence to possess arms, the competent authority may consider the same in accordance with law and on merits, and considering the above facts and the opinion of

the concerned authority including the concerned police officer.

5. However, it is made clear that this Court has not expressed any opinion on the merits of the matter with regard to grant of licence in favour of the petitioner. It is ultimately for the Commissioner of Police, Vadodara and/or competent authority to consider the case of the petitioner in accordance with law, opinion of the concerned authority, including the concerned police officer.

6. With the aforesaid observations and directions, the present petition stands disposed of. However, there will be no order as to costs.

(M.R.SHAH,J.)

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